

1 ask him to write the memo which is on the next page, page
2 32?

3 A I -- I can't tell you exactly about the dates, but
4 I did speak to Alan because I wanted Alan to -- to bless,
5 for lack of a better term, and communicate the same to Booth
6 so that Booth would know that my conversation with Dave was
7 a legitimate one and what I was talking about was a lawyer-
8 approved structure.

9 Q Going back to page 31 of Mass Media Exhibit 1,
10 just so the record is clear, there is various handwriting up
11 here at the top of the page. Does that have anything to do
12 with this memo?

13 A I have no idea. That's not my handwriting. My --
14 I couldn't make my word processor go over and make the date,
15 so I just wrote that in myself. That's my handwriting,
16 "8/17/93".

17 Q And the other handwriting at the top of the page
18 is not yours, has nothing to do as far as you know with this
19 case?

20 A I don't know what that is.

21 Q There is a fax notation at the top of the page
22 which says, "August 17th, 1993; 10:04; from Federated
23 Media", and then it says to a phone number. Is that when
24 you faxed this to Mr. Booth, at 10:00 in the morning?

25 A I have no recollection of that at all.

1 Q Do you recognize the phone number that appears
2 there?

3 A I don't.

4 Q Do you recognize the area code --

5 A Sure.

6 Q -- 813?

7 A I think that's Detroit.

8 Q And that's where Mr. Booth is.

9 A Yes, I wouldn't argue the point.

10 Q Is it possible that Mr. Campbell's memorandum on
11 page 32 became necessary because Mr. Booth became upset
12 about the possibility that your proposal involved a waiver
13 and that the purpose of Mr. Campbell's memorandum was to
14 assure him to the contrary?

15 A No. No, I don't think that at all. He wasn't --
16 I didn't ever remember anything about being upset.

17 Q You didn't talk -- you don't recall discussing it
18 with him.

19 A No, I didn't -- no, I don't recall any
20 conversation at all with either Booth or -- or -- or Ritter
21 in regard to these notes.

22 Q Now, Mr. Campbell's memorandum in the first
23 paragraph makes reference to having discussed the matter
24 with Mr. Qualey. Did Mr. Campbell report to you what he
25 discussed with Mr. Qualey?

1 A I -- I don't know. I don't recall.

2 Q Now, I believe you testified that after your
3 September meeting with Mr. Hicks and Mr. Brown, there was no
4 further discussion of the waiver until March -- or I mean
5 the option.

6 A That is correct.

7 Q Now, it's correct, isn't it, that no efforts were
8 made to formalize what later became Hicks Broadcasting until
9 March, is that correct?

10 A Well, I -- I think that -- I don't -- I'm a little
11 fuzzy -- I'm fuzzy about it. I don't remember whether they
12 were talking about a sub-S or an L.L.C. L.L.C.s were new,
13 they were brand new in Indiana. But my first discussion
14 of -- of the aspects of an operative agreement occurred at
15 the very end.

16 Q Well, during this period, were you acting on
17 behalf of your children in connection with this matter?

18 A During which period?

19 Q Well, during the entire period that the -- that
20 the deal was put together and the corporation or the L.L.C.
21 was ultimately formed.

22 A Well, let me -- I'm still not sure. Let me answer
23 this and see. I did speak on behalf of my kids with Rick
24 Brown at the times that -- that any negotiations needed to
25 be done, if that's what you mean.

1 Q Well, during the period from your first meeting
2 with Mr. Hicks on July 28th, 1993 until the corporation --
3 of the L.L.C. was finalized on March 31st, 1994, do you have
4 any knowledge as to whether your children spoke to Mr. Hicks
5 during that period, any of your children?

6 A I have -- I don't know.

7 Q Do you have any knowledge as to whether they spoke
8 to Mr. Brown during that time period?

9 A I'm fairly certain that -- excuse me. I'll go
10 back to my previous answer. I'm fairly certain that Alec
11 did not, but I can't speak about the other two. I have no
12 knowledge of that. I'm sorry. What was the last question?

13 Q The next one is during the same time period, do
14 you have any knowledge as to whether your children spoke to
15 Mr. Brown?

16 A No.

17 Q And when was Mr. Thompson hired? That would have
18 been in March, is that correct?

19 A Well, he, at his office, Barnes & Thornberg, did
20 this work at the tail end of -- of March.

21 Q And do you know whether your children talked to
22 him during that time period when he was doing that work?

23 A No, I don't.

24 Q Now, it appears that a decision was made to defer
25 the organization of Hicks Broadcasting until after the asset

1 purchase agreement with Booth was finalized, is that
2 correct?

3 A I don't know what their plans were.

4 Q Were you --

5 A That's what -- that's what happened, but I don't
6 know what they intended to do.

7 Q Do you know how it came about that that happened?

8 A No.

9 Q Were you involved in any decision in that respect?

10 A I -- and I can't remember the details even as I
11 speak. But there was some discussion at some point in --
12 after the first of the year. I don't think L.L.C.s were
13 allowed until the beginning of -- I don't know, the
14 beginning of '93. The legislature hadn't -- hadn't passed.
15 But there were some discussions of the merits of the two
16 structures, the sub-S and L.L.C. I have a recollection of
17 that, although I can't tell you exactly what the difference
18 is now.

19 Q Did you feel that your -- your children were
20 adequately protected by applying for or entering into an
21 agreement to buy a radio station before they had reached a
22 final agreement with Mr. Hicks as to the ownership structure
23 of the -- of the proposed licensee?

24 A Do I think they were safe?

25 Q Adequately protected.

1 A I had no reason to think otherwise. I held all of
2 these people in high regard. And --

3 Q So basically until after the assignment of license
4 was granted, there was no legal agreement as to your
5 children's ownership interest in the licensee, is that
6 correct?

7 A If the legal agreement is the operating agreement,
8 then that would be right.

9 Q And do you have any understanding as to whether
10 Mr. Hicks, had he so chosen, could have gone forward with
11 some other partners?

12 A I -- I can't -- I don't -- I mean, I don't know
13 the law on --.

14 Q Well, based on your business experience, is it
15 common to enter into a deal to purchase valuable assets when
16 you haven't finalized your arrangements with your partners?

17 A I can't say whether it is common. I think
18 entrepreneurs engage in all kinds of behaviors.

19 Q Have you done that?

20 A No. I've done things on faith.

21 Q And apart from encounters at trade meetings, you
22 really didn't know Mr. Hicks until July 28th, is that
23 correct?

24 A Well, it's how you want to characterize it. Did I
25 know him? I think I've described I've met him at various

1 things. And I -- I didn't -- I wouldn't describe him as a
2 good friend.

3 But given his background, and I'm really thinking
4 now about activities with trade groups and so forth, I
5 thought him of -- of good -- you know, of good character and
6 good reputation and so forth. I -- he had been in business
7 in Kalamazoo for some long while. And so while I didn't
8 know him on a business basis, I had a very good feeling
9 about him.

10 Q Now, turning back to your note to John Booth which
11 is page 31 of Mass Media Bureau Exhibit 1, would you read to
12 yourself the next-to-last paragraph beginning, "He will
13 return to the campus in a few weeks."

14 A Yes.

15 Q What did you mean to convey by that paragraph?

16 A I think that paragraph goes along with the one
17 before it. This happened to be the kid who wound up in the
18 golf business. The campus was in Arizona and he never came
19 back. So it was just two fathers talking to each other.

20 Q Well, you indicate that you were reaffirming your
21 "desire to provide for our people the best possible
22 opportunity to survive in this business in our home area.
23 It is important." Does that mean that it was important for
24 you to find an opportunity for your children to participate
25 in the radio business in the area where they live?

1 A I -- well, I would be interested in having my kids
2 in our business. I mean, I -- I clearly would. I don't
3 think I will in the case of our oldest and that's
4 disappointing to me. But that's the way it is. I really
5 think that's the kind of thing I was expressing. It was
6 more emotion than it was --

7 Q Could you turn to Mass Media Bureau Exhibit 6.

8 A What book is that?

9 Q That's your note to John -- that's in Book 2.

10 A Exhibit?

11 Q Exhibit 6, your note to Mr. Booth of April 18th,
12 1993.

13 A Right.

14 Q Now, just so something is clear for the record, on
15 the first page, you refer to your arrangements with Mr.
16 Booth as a JOA, which I assume means joint operating
17 agreement.

18 A Down here under --

19 Q Under "Leadership" in the first sentence there.

20 A Yes.

21 Q I just wanted to clarify whether there isn't a
22 station between a joint sales agreement and joint operating
23 agreement in your mind. What do those terms mean?

24 A I think in this case, the J -- that -- that's what
25 he called it in the first document from Saginaw. And so

1 that's what I called it here. It was subsequently referred
2 to as the venture. And that's what I meant here.

3 Q So those are just from your point of view
4 synonymous terms; just different ways of referring to the
5 same agreement.

6 A In this memo, yes.

7 Q As a general matter, is there some distinction in
8 the industry between a joint sales agreement and a joint
9 operating agreement?

10 A I -- I don't know the answer to that. I think
11 there -- people use a lot of different --

12 Q Now, on the second page, under the heading, "Sales
13 Presentation, Strategy and Revenue Expectations", as
14 numbered subsections to the second paragraph beginning, "1)
15 Presentation" and "2) Emerging feeling", do you see those
16 two?

17 A I do.

18 Q And if you would read them, just refresh your
19 recollection as to --

20 A Yes.

21 Q Now, in terms of -- at this point, you're
22 referring to Mr. Booth what you learned at the NAB meeting.
23 Were you also intending to recommend these solutions?

24 A I don't know what I was -- whether I was trying to
25 recommend anything. My goal was to keep him posted on

1 things that people were talking about and things that people
2 were saying. This was a very -- not -- not necessarily
3 confusing time. But nobody quite knew what the right
4 formula was: one person pitching three stations, one
5 pitching -- person pitching two stations, separate sales
6 staffs.

7 My goal was to simply get him to focus on what's
8 happening -- what I had learned in Washington and what's
9 happening in the business and maybe bring back some
10 discussions so we could further promote our own enterprise,
11 Radio One, in South Bend.

12 Q Now, subsequent to Hicks Broadcasting's assuming
13 control of WRBR, isn't it a fact that essentially this
14 proposal was adopted and that there were separate sales
15 staffs, each selling their own station?

16 A Well, yeah, but some other things happened. I
17 mean, there were a number of other changes that happened
18 during that same period of time between the time that I
19 wrote this and the time that the sales staffs split.

20 Q But that was ultimately adopted in connection with
21 your joint sales agreement, that the sales staff was split.

22 A Well, but LTA became BYT, and there was a
23 significant format change. The time and experience, we were
24 a whole lot smarter, but still experiencing when we split
25 the sales staff. But, sure, that's right, ultimately, and I

1 think that was in the middle of '95.

2 Q Now perhaps you can help us here. If you split
3 the sales staff, what is the remaining purpose of JSA?

4 A Cost savings, like savings there were in the
5 beginning, right out of the box. What were the goals?
6 There were two prongs. One was cost savings, and that we
7 enjoyed almost immediately, and that was an ongoing thing.
8 The other was a bump in revenue, and that was the hoped-for
9 thing I think ultimately happened, but there was a long time
10 trying and testing and experimenting in selling techniques
11 before we got there.

12 Q Now, if you will look under the "Some Facts"
13 section at the bottom of page two of Mass Media Bureau 6, --

14 A I see that.

15 Q -- am I correct in concluding that that had not
16 happened as of this time, that the joint sales agreement
17 served to increase sales?

18 A If I understand the question correctly, it is true
19 that the combining of the sales forces as of the time of the
20 writing of this memo had not been a successful thing. You
21 will recall, I said, we only got one salesperson instead of
22 five out of the transition, and we were, even in April the
23 15th, we were still trying to get started -- not started,
24 but trying to get it going faster.

25 Q Now, did there ever come a time when the joint

1 sales agreement produced results in terms of sales that were
2 not attributable, for instance, to the fact that both WLTA
3 and WRBR later changed their formats?

4 A That's hard to measure. If I may be more
5 specific, the other argument is sort of a shelf-space
6 argument. When a salesperson goes to call on a client, the
7 more things he or she has to sell, the better. I think that
8 it's also fair to say that with some clients there is an
9 image of bigness that comes with a JSA that translates in
10 the end to increased sales. I also think in the case of
11 agencies and people like that who are pretty adept, they can
12 -- it's kind of one-stop shopping. Are you with me?

13 Q Well, as I understand it, at least since July of
14 '95, as I recall, each station has been selling itself
15 separately. Is that correct?

16 A Well, mainly, not exclusively, but mainly, that's
17 true. Separate sales staffs, but there are still times when
18 a client will want to buy both stations, and one person will
19 do that deal. I think that is still true.

20 Q Like, if there is a WRBR salesperson and he goes
21 in to sell WRBR, since '95, since the separation of the
22 staffs, would he also attempt to sell WBYT?

23 A He wouldn't avoid it, but it wouldn't be his
24 principal or her principal mission.

25 Q Would he mention it at all or --

1 A He might. It depends on the client. And it might
2 make the inquiry, learn, call the salesperson from BYT to,
3 quick, run out there and call on that same client, that kind
4 of thing. There is still a fair amount of cooperation. But
5 the sales departments were split enough so that they had
6 separate goals and separate sales budgeting and so forth.

7 Q So it would appear that ultimately the most
8 important factor in the joint sales agreement is the ability
9 to combine resources. Is that correct?

10 A That's the easiest to track, but I wouldn't say
11 it's exclusively that.

12 Q Would you say it's predominantly that?

13 A No. I can't. I'd say it's hard to measure that.

14 Q Now, you proposed on page two of Mass Media Bureau
15 Exhibit 6 collocation of facilities.

16 A Yeah.

17 Q At that time, what did you have in mind,
18 collocating?

19 A At the time of the writing of this note the
20 salespeople were together, that is, the sales was one was
21 one. There was this Radio One thing. But the studios and
22 the disk jockeys were in a separate location about a mile
23 away, and so what I had in mind -- well, what I was
24 discussing, coming out of the NAP meeting, was the idea of
25 putting them all in the same place. They had their

1 facilities, and so I guess what I had in mind is we would
2 have our studios, they would have their studio, but it would
3 be on the same floor in the same sort of common environment.

4 Q Did you speculate the type of situation that
5 ultimately occurred, where they are in the same suite?
6 Would that be a correct characterization, that both stations
7 are now in the same suite?

8 A Well, they are on the same floor, and the floor is
9 5,000 square feet, if you want to call that a suite.

10 Q And rent is shared between the two.

11 A The rent is shared.

12 Q Is that what you had in mind to propose to Mr.
13 Booth at this juncture?

14 A Well, generally, sure.

15 Q As opposed to, for instance, he leasing his
16 facilities in the same building as you were in?

17 A No, I think the second sentence speaks to -- and I
18 think I testified earlier today, there is a kind of energy
19 that is created when you put salespeople and product people,
20 programming people together, because the product people or
21 programming people are performers, and they do funny things,
22 and it's kind of a show-biz deal that's helpful to the
23 salespeople to keep their energy up and so forth. They are
24 salespeople.

25 Q And did you ever get any reaction to this from Mr.

1 Booth, apart from the fact that he was selling?

2 A That may have spoken for itself, but I didn't
3 connect the two at all. No. I think I spoke with Ridder a
4 little bit about this.

5 Q And it subsequently did happen after the station
6 was sold. That's correct, isn't it?

7 A That the studios were collocated?

8 Q Yes. That the studios were collocated.

9 A When Hicks bought RBR, he, within a fairly short
10 period of time, moved his studios from University Gardens, I
11 think it was called, down to Edison Road.

12 Q Now, on page three under the heading "Some
13 Reflections" --

14 A Yes.

15 Q -- there is reference to "Vince." That's Vince
16 Ford, I assume.

17 A Yes.

18 Q Am I to understand that at that point you were
19 dissatisfied with his performance?

20 A Well, he was John's employee, so it wasn't mine to
21 say about his performance.

22 Q Well, did anything --

23 A Sorry.

24 Q Sorry. Please finish your answer.

25 A Well, I think the uncertainty of JSAs and the

1 melding of the sales efforts did not emerge to all of us at
2 the same time, and he may have had a different view of how
3 it should go for himself. Recall, his sales department came
4 to our place.

5 Q Now, did you reach any resolution of that with
6 John Booth before the sale?

7 A No.

8 Q Did you have any discussions with him about that
9 issue, the issue of Mr. Ford?

10 A I may have.

11 Q If you will turn to page four, and in the first
12 paragraph, numbered one and two, if you would read that.

13 A I see one. I'm not sure about the second sentence
14 of two; I can't quite figure out, but, anyway, that may not
15 be requested.

16 Q Isn't that true that in October of that year, Mr.
17 Klein was hired to be, in effect, the manager of Radio One?

18 A In October of this year, six months after I wrote
19 this?

20 Q In '93, yes. I apologize.

21 A He was hired -- yes.

22 Q Did you have any discussions with Mr. Booth
23 concerning that decision?

24 A I hired Steve to run our station.

25 Q Right. He was also hired, as I understand it, to

1 be the general manager of Radio One.

2 A Well, yeah, he was. I think actually by that time
3 the name Radio One had lost its luster.

4 Q Or the entity, whatever.

5 A Yeah, I think I understand. But he was the
6 manager who would look after the selling entity, whether
7 it's Radio One, whatever it is. Yes, that's true.

8 Q And he replaced Vince Ford.

9 A Well, Vince Ford never did know -- Vince Ford was
10 Booth's employee. He replaced a guy named Steve Ruby, who
11 had left there earlier in the year. Steve Klein replaced
12 Steve Ruby, who had left earlier.

13 Q Now, in Point 2 here, you suggest that
14 consideration should be given that the manager of the joint
15 sales agreement should eventually be the general manager of
16 both stations. Is that correct?

17 A That's what that says. Wait just a second. Yeah.
18 I think that's what that is.

19 Q And that eventually happened after Hicks
20 Broadcasting became the licensee of WRBR. Is that correct?

21 A Well, you will recall, when Hicks came along and
22 it was going to happen, we checked all of this with Allen
23 Campbell, just as I think John was in the process of doing,
24 but earlier, yes, that's what happened.

25 Q Now, Vince Ford remained as the general manager of

1 WRBR until Mr. Hicks took over. Is that correct?

2 A He retired.

3 Q Is that correct?

4 A He retired at the time, that yes. He retired from
5 Booth American, as I recall, at the time of the sale of WRBR
6 from Booth American to Hicks, L.L.C.

7 Q Now, when you say that your goal and one of your
8 purposes in seeking to preserve the joint sales agreement
9 with WRBR, that was one of the goals of your efforts in that
10 respect, wasn't it, after you couldn't buy the station?

11 A When I learned that we could not buy or that, as I
12 think, didn't want to wait, one of my goals, my principal
13 goal, my first priority, was to preserve the JSA.

14 Q And that was because of both a hoped-for sales
15 advantage and also because of the cost savings arising from
16 combined combination. Is that correct?

17 A Yes, that's right. I believed -- yes. I believed
18 that the JSA was the way of future. I wasn't certain of it,
19 but I believed that it was something worth being aware of
20 and being a part of.

21 Q Now, could this type of arrangement function if
22 both stations who were a party to it had directly competing
23 formats?

24 A Yes. It wouldn't be as easy, but they could.

25 Q Well, how would that work, for instance, if they

1 were both country stations? How could Mr. Klein function as
2 the general managers of both?

3 A Well, I guess I don't know exactly what you have
4 in mind. Why couldn't it?

5 Q Because wouldn't he be aware of certain plans and
6 schemes, promotional devices that ordinarily you wouldn't
7 share with someone who was a direct competitor?

8 A Well, perhaps, but you could also have two kinds
9 of country. I mean, there's traditional country and modern
10 country.

11 Q Well, I'm just assuming that -- I'm talking about
12 formats, however you call them, that are directly
13 competitive, that are reaching for the same segment of the
14 market, however you would characterize them, that are
15 directly competitive. Could they function in a combination
16 type of JSA, whereby there was a general manager, the same
17 general manager for both stations?

18 A Yes.

19 Q And how would that be accomplished?

20 A The same way any other format pairings would
21 occur.

22 Q So you would have no objection to being in a
23 business situation where your competitor knew what you were
24 planning?

25 A Well, but you would -- you could not aggregate

1 shares and sell that way. I don't think you're talking
2 about a station play precisely the same music at the same
3 time. I don't think that's what you are talking about. I
4 can't imagine a situation like that, but in the event that
5 the country that you were talking about earlier, within the
6 categories of country there are various strains, if you
7 will, of country.

8 Q And do they appeal to different demographics?

9 A They could.

10 Q Now, are you aware of any situations where there
11 have been joint sales agreements that have involved stations
12 that are directly competing with each other?

13 A Well, I don't want to be fencing with you, but
14 directly competitive. There are JSA -- no. I think there
15 are JSAs -- I can't recall them -- I can't believe specific
16 -- where there are similar formats. But I really can't
17 answer that.

18 Q But it's certainly a lot easier if the stations
19 have formats that don't overlap in terms of the demographics
20 they are seeking to reach.

21 A Well, it depends. It could be an advantage in a
22 selling situation if you could deliver two audiences
23 generally in the same demographic group. That's kind of the
24 beauty of radio in a selling situation. There are so
25 many --

1 MR. BOYCE: Your Honor, I don't believe that
2 exhibit has yet been received into evidence, so I would like
3 to move Mass Media Exhibit 6, the memo to John Booth of
4 April 15, 1993.

5 JUDGE CHACHKIN: All right. Any objection to its
6 receipt? The exhibit is received. Go ahead.

7 (Mass Media Exhibit 6 was
8 received received in
9 evidence.)

10 BY MR. BOYCE:

11 Q Mr. Dille, Pathfinder and Truth have situations
12 where they operate more than one station in the same market.
13 Is that correct?

14 A Yes.

15 Q In those situations have you ever had a situation
16 where the station's license to Pathfinder or Truth, as the
17 case may be, have the same or very similar formats?

18 A Well, let me be specific. That occurred in one
19 place, Tulsa, where there are three stations. One is talk
20 one is sports talk, that is, one is oldies, and one is jazz,
21 smooth jazz.

22 Q And how are those formats similar?

23 A Well, I'm not still really sure what you are
24 driving at, but in response to your question, there are
25 people in the age group that would listen to oldies that

1 could also listen to smooth jazz. I would guess they are
2 different, but it's possible.

3 Q Now, if you would turn to Mass Media Bureau
4 Exhibit 1, page 40, which is your statement to the
5 Commission.

6 A Bureau 1?

7 Q One, page 40. I just want to clarify what you
8 were thinking when you signed this statement. Now, with
9 respect to the statement that you would not finance or
10 guarantee the purchase of the station, I believe you
11 testified that you can't construe that as encompassing your
12 loans to your children because Peter Tannenbaum had said
13 that that was okay. Is that correct?

14 A That is correct.

15 Q Is that what you were thinking when you signed
16 this statement? Did you think of Peter Tannenbaum?

17 A Peter Tannenbaum was absolutely crystal clear when
18 he said, in a case where there is 51 percent single
19 shareholder, the balance of the shareholders are what are
20 called "nonattributable," and inasmuch are of little
21 consequence to the Commission. Further, there is a
22 parent/child premise, wherein adults, parents, can lend or
23 give money to children. And so, yes that's -- it didn't
24 occur to me otherwise.

25 Q It didn't occur to you otherwise, but what I'm

1 trying to get at is when you signed this statement, what you
2 were you thinking about?

3 A Just like I told you. It never entered my mind
4 that it was anything other than what I've just --

5 MR. JOHNSON: I was trying not to interrupt. I
6 apologize for that. I'll just note for the record, Your
7 Honor, that we are talking about the same exhibits but with
8 different exhibit numbers on direct and cross-examination.
9 I had referenced this document as Mass Media Bureau Exhibit
10 Number 3 at page 6 and Mass Media Number 1 at page 40. And
11 just for the record --

12 MR. BOYCE: That is correct. I believe that the
13 document appears at both places.

14 MR. JOHNSON: I'm sorry.

15 BY MR. BOYCE:

16 Q Now, with respect to the next statement, that you
17 would not be involved in the day-to-day operation of the
18 station, neither you nor your father, did you consider that
19 to include Pathfinder?

20 A Well, we had the JSA, so to the extent that we had
21 the JSA, Pathfinder people were doing the sales work of
22 WRBR.

23 Q Did it occur to you, even though you felt that was
24 entirely appropriate, that maybe the Commission would want
25 to know about that?

1 A I didn't think about the Commission.

2 Q So when you signed this agreement, this statement,
3 you weren't thinking about it?

4 A Allen Campbell prepared this document. He knew we
5 had a JSA.

6 Q Well, is it fair to say that you received this
7 statement from Allen Campbell, and you signed it in reliance
8 on the assumption that it was okay because it came from him?

9 A Yes.

10 Q And you weren't thinking about much at the time?

11 A I wasn't thinking about much?

12 Q Well, in a deposition you gave in this proceeding,
13 which I will show you --

14 MR. JOHNSON: I'm sorry. This is his deposition
15 in this proceeding?

16 MR. BOYCE: This is his deposition in this
17 proceeding, and I forget the date because I gave him the
18 original of the book.

19 JUDGE CHACHKIN: Are the page numbers on the
20 original deposition?

21 MR. BOYCE: Yes. These are excerpts. It will be
22 helpful. I'm not going to offer it as an exhibit

23 BY MR. BOYCE:

24 Q If you look at page 220 --

25 A Got it.

1 Q -- starting at line 10, and I'll read what it
2 says: "You had no conversation with Allen Campbell as to
3 whether or not Pathfinder could be involved in the
4 day-to-day operations of WRBR? Question: Okay. Well,
5 okay, well, the basis for my question is did you know what
6 they signed here reflects that you personally will not have
7 involvement in the day-to-day operations of WRBR? Answer:
8 That's right, but, furthermore, I understood that
9 Pathfinder, for the reasons we discussed earlier today,
10 wouldn't be involved in the operation of WRBR. Question:
11 Well, I mean to the extent if you're barred, if you
12 personally are barred. Answer: Yes." And there is a
13 notation by the reporter that you were interrupting.

14 "Question: Continuing, you understood that Pathfinder also
15 would be barred? Answer: Yes, I would, yes."

16 Now what did you mean --

17 MR. JOHNSON: Your Honor, in fairness, perhaps we
18 could ask that Mr. Royce also read to the witness the
19 sections of this deposition that appear on page 24,
20 beginning at line 13 through line 19 and, similarly -- I'm
21 sorry. I misspoke.

22 JUDGE CHACHKIN: Why don't you read it, Counsel?

23 MR. JOHNSON: Okay. Thank you, Your Honor. I'll
24 start reading at line nine, Your Honor. "And you don't
25 recall Allen giving you any explanation as to why other than

1 that the Commission wants it? Answer: No. No, I don't.

2 Question: So you're saying that when you signed this
3 station, that the question of whether or not Pathfinder
4 could be involved didn't enter your head. Answer: I was
5 not thinking about Pathfinder when we were talking about
6 this." Your Honor, also carrying over to on page 15 --

7 MR. BOYCE: On line 15 it says: "Not Pathfinder
8 could be involved didn't even enter your ahead."

9 MR. JOHNSON: If I didn't say that, I misspoke.
10 Similarly, over on page 224, at line five, Mr. Shuck writes:
11 "And I'm not worried about the joint sales agreement."

12 MR. BOYCE: Sorry. What page are you on?

13 MR. JOHNSON: I'm on page 225, beginning at line
14 five, "Mr. Shuck: And I'm not worried about the joint sales
15 agreement. Question: What I'm focusing on is just the
16 wording of this particular document, and perhaps I can ask
17 it in this ways. Well, it's actually, as I understand your
18 testimony, the question of whether or not this should have
19 read, 'not only you and your father.'"

20 JUDGE CHACHKIN: "Not only your father and
21 yourself."

22 MR. JOHNSON: Beg your pardon?

23 JUDGE CHACHKIN: It says: "Not only your father
24 and yourself, but Pathfinder."

25 MR. JOHNSON: Thank you, Judge. If you add

1 "Pathfinder" in there, that never came up, whether or not
2 Pathfinder should be included in this statement as an entity
3 that was not going to be involved in the day-to-day
4 operations and financing.

5 The answer says: "That discussion related to me"
6 -- Your Honor, I'm skipping Mr. Guzman's comment, I believe.
7 Yeah. I'm sorry. I think the proper answer is on page 226,
8 line 24: "The question of Pathfinder didn't come up. That
9 question, I got from Campbell related to me and my father.
10 I don't mean to be cavalier about it, but it was a simple
11 question."

12 The next question: "No, and I don't mean to
13 suggest that this is -- you know, that you were being
14 cavalier. What we are trying to find out is what were you
15 thinking. Answer: Well, I wasn't thinking too much. I
16 just -- here is the question, and here is the answer."

17 BY MR. BOYCE:

18 Q Now, you see where I got that you weren't thinking
19 much?

20 A Yes, I do.

21 Q Do you wish to explain that series of testimony
22 that we just read?

23 A Well, I guess -- take me back. I signed where it
24 said I would not be involved in the day-to-day operations.
25 It said "I," and that's what I honored.

1 Q But at the beginning portion that we just read
2 into the record you seem to indicate at page 220 that you
3 did recognize that in some way this also applied to
4 Pathfinder.

5 A Well, but everyone knew we had a JSA, so all I'm
6 saying is Allen Campbell, I knew it, and I assume everyone
7 else knew it, to that extent I think Pathfinder people were
8 involved in doing -- in the JSA that benefitted RBR.

9 Q Apart from the JSA, setting that aside, did you
10 believe that Pathfinder would have been barred from other
11 types of involvement in WRBR?

12 A Well, we had -- we also have a list of other
13 things which Campbell had delineated, helped us delineate,
14 wherein we would share general managers and other things,
15 and we had subsequently an accounting agreement, wherein we
16 kept books for Hicks Broadcasting.

17 Q But that came up several weeks later, isn't that
18 correct, that you received that advice from Mr. Campbell?

19 A That came up on March -- well --

20 Q And what we need to keep in mind here is that the
21 Commission asked for some information. Did the Commission
22 know about what your intentions were in terms of the
23 accounting agreement and the common general managers? The
24 issue here is not whether these things could be done. The
25 question is, the Commission asked you a question, and did

1 you give a full answer?

2 MR. JOHNSON: Your Honor, I'm not sure what the
3 question is. If it's did the Commission know --

4 JUDGE CHACHKIN: The Commission didn't ask him any
5 questions. The Commission called up Mr. Campbell.

6 MR. BOYCE: That's correct, Your Honor.

7 JUDGE CHACHKIN: And Mr. Campbell made a statement
8 based on what the Commission inquiry, at least that's what
9 he interpreted it, prepared a statement which this witness
10 signed. So there was never any discussion between the
11 Commission and Mr. Dille.

12 MR. BOYCE: That's correct, Your Honor.

13 JUDGE CHACHKIN: So we have to understand that.
14 So how would he know what the Commission had or didn't have?
15 He didn't participate in the application. His name is not
16 on the assignment application.

17 MR. BOYCE: That's correct, and I withdraw that
18 question.

19 JUDGE CHACHKIN: Well, you do have those problems
20 to deal with. The fact is that he did not participate in
21 the application, and the only thing he had was this
22 statement prepared by Mr. Campbell and a brief statement
23 from Mr. Campbell, discussion.

24 Now, what Mr. Campbell told him -- we've had Mr.
25 Campbell's testimony, and I assume you've had a full

1 opportunity to question Mr. Campbell as to what specifically
2 he told Mr. Dille when he sent him the statement. That's in
3 the record already, for what it's worth.

4 BY MR. BOYCE:

5 Q Returning to what you were thinking when you saw
6 the statement that "I will not be involved in day-to-day
7 operations of WRBR," did you perceive that that applied
8 also, with the exception of the JSA, to actions that
9 Pathfinder might take to be involved in the day-to-day
10 operations?

11 A All I know is what Campbell said, and it said that
12 I would not be involved, and that's what I thought, and
13 that's what I did.

14 Q So, basically, to go to your testimony on page
15 226, 227, "I wasn't thinking much. I just -- here was the
16 question, and here was the answer," is that your state of
17 mind at the time you signed the --

18 A My state of mind is, my lawyer called me, prepared
19 the document, he said this is what you need to sign, I read
20 it, I had no trouble with it, and I signed it. It was a
21 short experience.

22 Q And you were aware that this would ultimately be
23 submitted to the Federal Communications Commission.

24 A This statement?

25 Q This statement.